

### **REMARKS**

This responds to the Office Action mailed on 9 March 2006.

Claims 4, 6, and 7 are amended, no claims are canceled, and no claims are added; as a result, claims 1-50 are now pending in this application. The amendments to the claims are fully supported by the specification as originally filed. No new matter is introduced. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

#### **Provisional Double Patenting Rejection**

Claims 1-50 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-49 of co-pending U.S. Application No. 10/731,915.

A Terminal Disclaimer was filed for co-pending U.S. Application No. 10/731,915 on 9 May 2006. Applicant submits that this Terminal Disclaimer should make these rejections of the claims of the instant application inapplicable.

Applicant respectfully requests withdrawal of these rejections of claims 1-50, and reconsideration and allowance of these claims.

#### **§112 Rejection of the Claims**

Claims 4, 6, and 7 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

Claim 4 is amended to depend on claim 3 in which the feature “an inhibiting filter” is introduced. Claims 6 and 7 are amended.

Applicant respectfully requests withdrawal of these rejections of claims 4, 6, and 7, and reconsideration and allowance of these claims.

#### **Comments**

As discussed in M.P.E.P § 2131, a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is

contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). In addition, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

According to *M.P.E.P.* § 2141, which cites *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986), the following tenets of patent law must be adhered to when applying 35 U.S.C. § 103. First, the claimed invention must be considered as a whole. Second, the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination. Third, the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. Fourth, obviousness is determined using a reasonable expectation of success standard. Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. *M.P.E.P.* § 2141 (citing *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966)).

*First §102 Rejection of the Claims*

Claim 1 was rejected under 35 U.S.C. § 102(e) for anticipation by Kandel (U.S. 6,353,671). Applicant traverses these grounds of rejection of this claim.

Applicant reserves the right to swear behind Kandel at a later date.

Applicant cannot find in Kandel a disclosure, a teaching, or a suggestion of a method including adjusting a feedback-inhibiting filter using a narrowband subaudible probe signal as recited in claim 1. In the Office Action, it is stated that “Kandel discloses ... adjusting a feedback-inhibiting filter (Fig. 4; column 5, line 57 to column 6, line 5; column 9, lines 50-57) using a narrowband subaudible probe signal (Fig. 4; column 6, lines 19-24; column 10, lines 12-25; column 12, lines 1-4).” Applicant respectfully disagrees with this analysis. Applicant submits that a signal input to a filter that then provides a modified version of that signal does not disclose, teach, or suggest using a signal to adjust the filter itself. In the Office Action, with respect to Kandel it is stated that “the signals from the loudspeaker 117 comprises the injected

tone T (i.e. narrowband subaudible probe signal) in order to produce a negative feedback (i.e. adjusting a feedback-inhibiting filter using a narrowband subaudible probe signal) which is transmitted to the mixer 113.” Applicant submits “negative feedback” is a signal and that the quote shows a “negative feedback” signal is produced from “injected tone T.” From Kandel’s Figure 4, injected tone T is operated on by filter 120 to produce the “negative feedback” signal, that is, filter 120 operates on T to produce the “negative feedback” signal, which does not suggest that injected tone T adjusts filter 120. Therefore, Applicant cannot find in Kandel or in the Office Action analysis of Kandel a disclosure, a teaching, or a suggestion of a method that includes adjusting a filter using a signal having the features recited in claim 1.

Thus, Applicant submits that Kandel does not teach each and every claim element of claim 1 and that Kandel does not teach the identical invention in as complete detail as is contained in claim 1. Thus, Applicant submits that Kandel does not anticipate claim 1 and that claim 1 is patentable over Kandel for at least the reasons stated above.

Applicant respectfully requests withdrawal of these rejections of claim 1, and reconsideration and allowance of this claim.

Second §102 Rejection of the Claims

Claim 1 was rejected under 35 U.S.C. § 102(e) for anticipation by Eatwell (U.S. 6,594,365). Applicant traverses these grounds of rejection of this claim.

Applicant reserves the right to swear behind Eatwell at a later date.

Applicant cannot find in Eatwell a disclosure, a teaching, or a suggestion of a method that includes using a narrowband subaudible probe signal as recited in claim 1. In the Office Action, it is stated that “Eatwell discloses a method of processing audio signals, comprising inhibiting at least one feedback component of an input audio signal by adjusting a feed back-inhibiting filter (Fig. 2; column 5, line 68 to column 6, line 64) using a narrowband subaudible probe signal (column 5, lines 45-65; column 6, line 27-41).” With the cited section column 5, lines 45-65, at column 5, lines 50-65, Eatwell recites:

The present invention uses the unwanted noise from external sources 11 to mask the test signal (such as test signal 26) and thereby make it substantially inaudible. For example, if the external noise has a strong tonal component at one frequency, the level of the test signal at nearby frequencies can be set relative to this level. Even if the response to the test signal at these nearby frequencies is much higher

than the external noise level at these frequencies, the test signal will still be inaudible because of the acoustic masking property. This is a considerable improvement over prior schemes in which the test signal level was chosen with regard only to external noise at the same frequency. In the present invention, the test signal at the nearby frequencies is louder, enabling the system response model to be estimated more accurately and significantly faster.

Though Eatwell discusses inaudible signals in the section cited in the Office Action, the cited section does not teach or suggest a test signal that is narrow band, as demonstrated by the last sentence of the above quote. Therefore, Applicant submits that Eatwell does not teach each and every claim element of claim 1 and that Eatwell does not teach the identical invention in as complete detail as is contained in claim 1. Thus, Applicant submits that Eatwell does not anticipate claim 1 and that claim 1 is patentable over Eatwell for at least the reasons stated above.

Applicant respectfully requests withdrawal of these rejections of claim 1, and reconsideration and allowance of this claim.

*Third §102 Rejection of the Claims*

Claims 1-2, 5-15, 17-18, 20, 22, 25, 28-29, 34, 36 and 40 were rejected under 35 U.S.C. § 102(b) for anticipation by Miller et al. (U.S. 5,506,910). Applicant traverses these grounds of rejection of these claims.

Applicant cannot find in Miller a disclosure, a teaching, or a suggestion of a method in which a feedback-inhibiting filter is adjusted using a narrowband subaudible probe signal, as recited in claim 1. In the Office Action, it is stated that "Miller discloses a method of processing audio signals, comprising inhibiting at least one feedback component of an input audio signal by adjusting a feed back-inhibiting filter (Fig. 3; column 7, lines 9-19) using a narrowband subaudible probe signal (Fig. 1; column 4, line 64 to column 5, line 35)." Regarding Figure 3 at column 7, lines, 12-16, Miller recites:

The feedback eliminator **62** monitors the program signal from the mixer **24**, identifies any frequencies which become loud because of acoustic feedback, and attenuates identified howl frequencies to eliminate the acoustic feedback.

Applicant cannot find in Miller a teaching or suggest that feedback eliminator **62** is adjusted using a signal. Applicant submits that a filter or "feedback eliminator" operating on a signal

does not disclose, teach, or suggest a signal adjusting a filter. Therefore, Applicant submits that Miller does not teach each and every claim element of claim 1 and that Miller does not teach the identical invention in as complete detail as is contained in claim 1. Thus, Applicant submits that Miller does not anticipate claim 1 and that claim 1 is patentable over Miller for at least the reasons stated above.

Applicant cannot find in Miller a disclosure, a teaching, or a suggestion of a method that includes forming a probe signal to probe a feedback path, as recited in claim 2. In the Office Action, it is stated that “Miller discloses a method of processing at least one audio signal comprising: filtering a processed signal by a notch filter to form a filtered signal (Fig. 1; column 4, lines 47-63); and sending a subaudible narrowband signal having a first bandwidth into the filter signal to form a probe signal to probe a feedback path having a second bandwidth (Fig. 1; column 4, line 64 to column 5, line 35).” Applicant disagrees. From Miller’s Figure 1, Applicant submits that Miller does not disclose, teach, or suggest probing a feedback path. Miller has “inputs from one or more program signal generators such as musical instrument **26**, microphone **28**, and/or recorded material player **30**” and audio pickup at “reference microphone **40**” (*See, Miller, Figure 1 and column 3, lines 38-49*). As shown in Miller’s Figure 1, Miller’s system is applied to the signal received at “reference microphone **40**.” Since “reference microphone **40**” is different from “musical instrument **26**, microphone **28**, and/or recorded material player **30**,” Applicant submits that a test signal at the input to “reference microphone **40**” is not a probe of a feedback path. Therefore, Applicant submits that Miller does not disclose, teach, or suggest sending a subaudible narrowband signal into a filtered signal to form a probe signal to probe a feedback path as recited in claim 2. Thus, Applicant submits that Miller does not teach each and every claim element of claim 2 and that Miller does not teach the identical invention in as complete detail as is contained in claim 2. Thus, Applicant submits that Miller does not anticipate claim 2 and that claim 2 is patentable over Miller for at least the reasons stated herein.

Claims 5-7 depend on claim 2. Applicant submits that claims 5-7 are over Miller for at least the reasons stated with respect to claim 2.

Applicant cannot find in Miller a disclosure, a teaching, or a suggestion of a system having a detector to detect undesired feedback in an input signal and a notch filter to filter a

processed signal, wherein the notch filter provides a filtered signal and the processed signal is provided by processing the input signal, as recited in claim 8. In the Office Action, it is stated that

Regarding Claim 8, Miller discloses a system for enhancing audio signals, the system comprising;  
at least one detector to detect undesired feedback in an input signal (Fig. 1; column 3, lines 32-60);  
at least one notch filter to filter a processed signal, wherein the at least one notch filter provides a filtered signal (Fig. 1; column 4, lines 47-63) and the processed signal is provided by processing the input signal (Fig. 1); and  
at least one probe generator to generate a probe signal, the probe signal and the filtered signal used to probe a feedback path with a narrowband subaudible audio probe signal (Fig. 1; column 4, line 64 to column 5, line 35).

From Miller's Figure 1, "sine wave detector **42**" has an input from "microphone **40**" and "narrow band reject filter **21**" has an input processed from "musical instrument **26**, microphone **28**, and/or recorded material player **30**." From Miller's Figure 1, the input related to detector **42** is different from the input related to filter **21**. In contrast, the recited detector and notch filter are related to the same input in claim 8. Thus, Applicant submits that the features of Miller's system are not configured as the features recited in claim 8 of the instant application. Hence, Miller does not disclose the presence of each and every element of the claim 8 as arranged as in claim 8. Thus, Applicant submits that Miller does not anticipate claim 8 and that claim 8 is patentable over Miller for at least the reasons stated herein.

Claims 9-15, 17-18, 20, and 22 depend on claim 8. Applicant submits that claims 9-15, 17-18, 20, and 22 are over Miller for at least the reasons stated with respect to claim 8.

In the Office Action, it is stated that "[c]laim 25 is essentially similar to Claim 8 and is rejected for the reasons stated above apropos to Claim 8 (Fig. 1; column 4, line 64 to column 5, line 35)." This statement is clearly in error. Independent claim 25 includes all the features of 8 and additional features that have not been discussed in the Office Action. Further, in the Office Action, it is stated that "[c]laims 24, 26-27, 30-33, 35 . . . are allowable if Applicant overcomes the Double Patenting rejection set forth in this Office Action," which demonstrates that claim 25 is patentable over the art of record since claims 26-27, 30-33, and 35 depend from independent claim 25. Applicant submits that claim 25 is therefore patentable over Miller for at least the reasons stated herein.

Claims 28, 29, and 34 depend on claim 25. Applicant submits that claims 28, 29, and 34 are patentable over Miller for at least the reasons discussed with respect to claim 25.

In the Office Action, it is stated that “[c]laim 36 is essentially similar to Claims 8, 22, and 25 and is rejected for the reasons stated above apropos to Claim 8, 22, and 25.” Based on the Examiner’s statement, it is clear that claim 36 is patentable over Miller for at least the reasons stated herein with respect to claims 8 and 25. Further, similar to the analysis of claim 25 in the Office Action, the features of claim 36 have not been discussed in the Office Action. Further, in the Office Action, it is stated that “[c]laims . . . 37-39. . . are allowable if Applicant overcomes the Double Patenting rejection set forth in this Office Action,” which demonstrates that claim 36 is patentable over the art of record since claims 37-39 depend from independent claim 36. Applicant submits that claim 36 is therefore patentable over Miller for at least the reasons stated herein.

Claim 40 depends on claim 8. Applicant submits that claim 40 is patentable over Miller for at least the reasons stated with respect to claim 8.

Applicant respectfully requests withdrawal of these rejections of claims 1-2, 5-15, 17-18, 20, 22, 25, 28-29, 34, 36 and 40, and reconsideration and allowance of these claims.

#### First §103 Rejection of the Claims

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Finn et al. (U.S. 6,496,581). Applicant traverses these grounds of rejection of these claims.

Applicant reserves the right to swear behind Finn et al. (hereafter Finn) at a later date.

Applicant cannot find in Finn, as proffered in the Office Action, a teaching or a suggestion of a method that includes inhibiting at least one feedback component of an input audio signal by adjusting a feedback-inhibiting filter using a narrowband subaudible probe signal as recited in claim 1. In the Office Action, it is stated that “Finn does not expressly the narrowband probe signal being subaudible.” Further, in the Office Action, it is stated that “the Examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art to have the narrowband probe signal be subaudible in order to reduce undesired signals heard by the user.” Pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of the

Examiner's position in relation to Finn taken as a whole. Absent a reference, the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2), M.P.E.P. 2144.03. Finn relates to apparatus to remove undesired signals prior to input to a speaker. *See Finn column 14, lines 50-53 and column 15, lines 17-19.* If Finn teaches that his apparatus removes undesired signals prior to input to a speaker, then the user will not hear such undesired signals. Thus, there is no basis provided in Finn or in the Office Action for the Official Notice.

In the Office Action, it is stated that "Finn discloses ... adjusting a feedback-inhibiting filter (Fig. 8; column 15, lines 17-36) using a narrowband probe signal (400, 430)." In column 15, lines 17-36 Finn recites:

In FIG. 8, an acoustic feedback tonal canceler **390** removes tonal feedback noise from the output of microphone **36** to prevent broadcast thereof by loudspeaker **34**. Feedback tonal canceler **390** includes a summer **392** having an input **394** from microphone **36**, an input **396** from feedback detector **398** and tone generator **400** supplied through adaptive filter model **402**, and an output **404** to loudspeaker **34** through summer **90**. Model **402** has a model input **406** from tone generator **400**, a model output **408** supplying a correction signal to summer input **396**, and an error input **410** from summer output **404**. A second feedback tonal canceler **420** is comparable to feedback tonal canceler **390**. Feedback tonal canceler **420** includes a summer **422** having an input **424** from microphone **38**, an input **426** from feedback detector **428** and tone generator **430** supplied through adaptive filter model **432**, and an output **434** supplied to loudspeaker **32** through summer **106**. Model **432** has a model input **436** from tone generator **430**, a model output **438** supplying a correction signal to summer input **426**, and an error input **440** from summer output **434**.

Applicant cannot find in the above quote from Finn referenced in the Office Action a teaching or a suggestion of a narrowband probe signal. Applicant submits that using tone generators (**400**, **430**) in Finn does not teach or suggest using a narrowband tone signal. Therefore, Applicant submits that Finn does not teach or suggest using a subaudible signal or using a narrowband subaudible signal. Thus, Applicant submits that Finn does not teach or suggest all the elements of claim 1 and that claim 1 is patentable over Finn.

Applicant cannot find in Finn, as proffered in the Office Action, a teaching or a suggestion of a method that includes sending a subaudible narrowband signal having a first bandwidth into a filtered signal to form a probe signal to probe a feedback path as recited in claim 2. In addition to the lack of teaching or suggestion in Finn with respect to a subaudible narrowband signal, Applicant cannot find a teaching or a suggestion in Finn with respect to



forming a probe signal to probe a feedback path. In Figure 8, the feedback detector provides input to tone generator **400**, where the output of tone generator **400** is provided to model **402**, whose output is summed with signals from other models to remove to tonal feedback noise to prevent broadcast of the tonal noise by the loudspeaker **34**. Finn appears to remove detected feedback without probing the feedback path. As a result of the void in Finn regarding probing a feedback path, Applicant submits that Finn does not form a probe signal to probe a feedback path and further that Finn does not teach or suggest forming a probe signal as recited in claim 2.

Further with respect to claim 2 in the Office Action, it is stated that "it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Finn with the teaching of Finn to incorporate an acoustic feedback tonal canceler in order to removing tonal noise from the output of the microphone to prevent broadcast thereof by a remote but acoustically coupled loudspeaker." Applicant respectfully traverses the application of Finn to Finn as proffered in the Office Action. It is noted that "[a]ny judgement on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper." *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). There is no basis, reference, or objective evidence provided in the Office Action to support the proposed modification of Finn. Applicant submits that the application of Finn to Finn as proposed in the Office Action can only be gleaned from use of Applicant's disclosure. Therefore, such application of Finn to Finn is not proper.

For at least the reasons stated above, Applicant submits that Finn does not teach or suggest all the elements of claim 2 and that claim 2 is patentable over Finn. Claims 3-7 depend from claim 2. Applicant submits that claims 3-7 are patentable over Finn for at least the reasons stated with respect to claim 2.

Applicant respectfully requests withdrawal of these rejections of claims 1-7, and reconsideration and allowance of these claims.

*Second §103 Rejection of the Claims*

Claims 8-23, 25, 28-29, 34, 36 and 40 were rejected under 35 U.S.C. § 103(a) as being

unpatentable over Finn et al. in view of Seki et al. (U.S. 5,677,987). Applicant traverses these grounds of rejection of these claims.

Applicant cannot find in the combination of Finn and Seki et al. (hereafter Seki), as proffered in the Office Action, a teaching or a suggestion of a system that includes a probe generator to generate a probe signal such the system is configured to use the probe signal and a filtered signal to probe a feedback path with a narrowband subaudible audio probe signal, as recited in claim 8. In the Office Action, it is stated that “Finn does not expressly disclose at least one probe generator to generate a probe signal and the filtered signal used to probe a feedback path with a narrowband audio probe signal.” Applicant submits that not only does Finn fail to disclose a system configured to “probe a feedback path with a narrowband audio probe signal,” but Finn is void of a teaching of a system configured to probe a feedback path with a signal. Applicant cannot find a teaching or a suggestion in Finn with respect to forming a probe signal to probe a feedback path. In Figure 8, the feedback detector provides input to tone generator **400**, where the output of tone generator **400** is provided to model **402**, whose output is summed with signals from other models to remove tonal feedback noise to prevent broadcast of the tonal noise by the loudspeaker **34**. Finn appears to remove detected feedback without probing the feedback path. Also in Figure 7, Finn appears to remove detected feedback without probing the feedback path. In the Office Action, Seki is cited with respect to a “compressor/limiter” to process an input signal. Application submits that the teaching of Seki regarding a “compressor/limiter” does not cure the abovementioned deficiencies of applying Finn to claim 8. Thus, Applicant submits that the combination of Finn and Seki does not teach or disclose a system configured to probe a feedback path with a signal as recited in claim 8.

Further with respect to claim 8 in the Office Action, it is stated that “it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Finn with the teaching of Finn to incorporate an acoustic feedback tonal canceler in order to removing tonal noise from the output of the microphone to prevent broadcast thereof by a remote but acoustically coupled loudspeaker.” Applicant respectfully traverses the application of Finn to Finn as proffered in the Office Action. It is noted that “[a]ny judgement on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the

claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper." *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). There is no basis, reference, or objective evidence provided in the Office Action to support the proposed modification of Finn. Applicant submits that the application of Finn to Finn as proposed in the Office Action can only be gleaned from use of Applicant's disclosure. Therefore, such application of Finn to Finn is not proper. The combination of Seki with Finn as proffered in the Office Action does not cure these deficiencies of applying Finn to claim 8.

In the Office Action, it is stated that "Finn does not expressly the narrowband probe signal being subaudible." Further, in the Office Action, it is stated that "the Examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art to have the narrowband probe signal be subaudible in order to reduce undesired signals heard by the user." Pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of the Examiner's position in relation to Finn taken as a whole. Absent a reference, the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2), M.P.E.P. 2144.03. Finn relates to apparatus to remove undesired signals prior to input to a speaker. *See Finn column 14, lines 50-53 and column 15, lines 17-19.* If Finn teaches that his apparatus removes undesired signals prior to input to a speaker, then the user will not hear such undesired signals. Thus, there is no basis provided in Finn or in the Office Action for the Official Notice. The combination of Seki with Finn, as proffered in the Office Action, does not cure these deficiencies of applying Finn to claim 8.

For at least the reasons stated above, Applicant submits that Finn in view of Seki does not teach or suggest all the elements of claim 8 and that claim 8 is patentable over Finn in view of Seki. Claims 9-23 and 40 depend from claim 8. Applicant submits that claims 9-23 and 40 are patentable over Finn in view of Seki for at least the reasons stated with respect to claim 8.

In the Office Action, it is stated that "[c]laim 25 is essentially similar to Claim 8 and is rejected for the reasons stated above apropos to Claim 8 (Figs. 7 and 8; column 15, lines 4-36)." This statement is clearly in error. Independent claim 25 includes all the features of 8 and additional features that have not been discussed in the Office Action or in Finn column 15, lines

4-36. Further, in the Office Action, it is stated that “[c]laims 24, 26-27, 30-33, 35 . . . are allowable if Applicant overcomes the Double Patenting rejection set forth in this Office Action,” which demonstrates that claim 25 is patentable over the art of record since claims 26-27, 30-33, and 35 depend from independent claim 25. Applicant submits that claim 25 is therefore patentable over Finn in view of Seki for at least the reasons stated herein.

Claims 28, 29, and 34 depend on claim 25. Applicant submits that claims 28, 29, and 34 are patentable over Finn in view of Seki for at least the reasons discussed with respect to claim 25.

In the Office Action, it is stated that “[c]laim 36 is essentially similar to Claims 8, 22, and 25 and is rejected for the reasons stated above apropos to Claim 8, 22, and 25.” Based on the Examiner’s statement, it is clear that claim 36 is patentable over Finn in view of Seki for at least the reasons stated herein with respect to claims 8 and 25. Further, similar to the analysis of claim 25 in the Office Action, the features of claim 36 have not been discussed in the Office Action. Further, in the Office Action, it is stated that “[c]laims . . . 37-39. . . are allowable if Applicant overcomes the Double Patenting rejection set forth in this Office Action,” which demonstrates that claim 36 is patentable over the art of record since claims 37-39 depend from independent claim 36. Applicant submits that claim 36 is therefore patentable over Finn in view of Seki for at least the reasons stated herein.

Applicant respectfully requests withdrawal of these rejections of claims 8-23, 25, 28-29, 34, 36 and 40, and reconsideration and allowance of these claims.

### Third §103 Rejection of the Claims

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Stott et al. (U.S. Publication 2002/0044667). Applicant traverses these grounds of rejection of these claims.

Applicant reserves the right to swear behind Stott et al. (hereafter Stott) at a later date.

Applicant cannot find in Stott a disclosure, a teaching, or a suggestion of a method in which a feedback-inhibiting filter is adjusted using a narrowband subaudible probe signal, as recited in claim 1. In the Office Action, it is stated that “Stott discloses a method . . . adjusting a feedback-inhibiting filter (Fig. 7; page 3; paragraph 0047-0053) using a narrowband probe signal (70)(abstract; Fig. 7).” Applicant disagrees. In the Abstract, Stott recites that the “the signal

having an auto-correlation function which is substantially a delta function may be an added noise signal (70) or may be constituted by the signal being processed itself.” Applicant submits that a signal having substantially a delta function as an auto-correlation function does not teach or suggest that the signal is narrowband. Therefore, Applicant submits that Stott does not teach or suggest all the elements of claim 1 and claim 1 is patentable over Stott.

Applicant respectfully requests withdrawal of these rejections of claim 1, and reconsideration and allowance of this claim.

*First Allowable Subject Matter*

Claims 24, 26-27, 30-33, 35, 37-39, 41-45 and 47-50 were indicated to be allowable if Applicant overcomes the Double Patenting rejection set forth in the Office Action.

A Terminal Disclaimer was filed for co-pending U.S. Application No. 10/731,915. Applicant respectfully requests withdrawal of these objections of claims 24, 26-27, 30-33, 35, 37-39, 41-45 and 47-50, and reconsideration and allowance of these claims.

*Second Allowable Subject Matter*

Claim 46 was objected to as being dependent upon a rejected base claim, but was indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 46 depends from claim 1. Applicant submits that claim 1 is patentable over the cited references, as demonstrated herein. Thus, Applicant submits that claim 46 is patentable over the cited references, as proffered in the Office Action.

Applicant respectfully requests withdrawal of these objections of claim 46, and reconsideration and allowance of this claim.

*Assertion of Pertinence*

Applicant has not responded to the assertion of pertinence stated for the patents cited, but not relied upon, by the Office Action since these patents are not relied upon as part of the rejections in this Office Action. Applicant is expressly not conceding they have any pertinence and reserves the right to respond more fully should any of them form a part of some future

rejection.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 371-2157 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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